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DEVELOPMENT SERVICES MEMORANDUM

DATE: April 5, 2016

TO: Chairman Bailey and Members of the Zoning Board of Appeals

CC: Eric Slagle, Director of Development Services
Shaun Shanahan, Building Commissioner
Judy Tymon, Senior Planner
Joseph Giniewicz, Associate Planner

FROM: Christine McCall, Assistant Planner

RE: 374-386 Chelmsford Street

PROJECT SUMMARY

Geoff Schembechler is seeking Site Plan Review and Special Permit approval at 374-386 Chelmsford Street. The proposal is to expand and upgrade the existing Domino's Pizza to create additional parking spaces and a new drive-through window. The proposed project is located in the Regional Retail (RR) zoning district and requires Site Plan Review approval under Sec. 11.4 from the Planning Board, Special Permit approval from the Zoning Board under Art. 12: Table of Uses, and Variance approval from the Zoning Board under Section 6.1.4 of the Lowell Zoning Ordinance.

DECISION CRITERIA (Special Permit)

The Board shall grant a Special Permit only upon its written determination that the adverse affects of the proposed use and structure do not outweigh its beneficial impacts to the city or the neighborhood, in view of the particular characteristics of the site, and the proposal in relation to that site, and find that the following criteria have been adequately addressed:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood Character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on city services, tax base, and employment.

DECISION CRITERIA & PREREQUISITES (Variance)

The Lowell Zoning Ordinance and Massachusetts General Law (Ch. 40A, Sec. 10) state that the Zoning Board must find the following zoning prerequisites have been met before a variance may be granted. Specifically, section 11.2.3 states that, "the Board of Appeals is authorized to grant a variance from zoning ordinances only if each of the following jurisdictional conditions" exist:

1. Special hardship “owning to circumstances relating to the soil conditions shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district.”
2. If “relief can be granted without substantial detriment to the public good.”
3. Relief requested can be granted “without nullifying or substantially derogating from the intent of the zoning.”

COMMENTARY

Based on a review of the submitted materials, we offer the following to the Board for consideration. ***If the Board finds that the applicant has met the requirements for granting a Variance***, the following comments may either be clarified during the public hearing or be adopted as conditions in part or in whole to the approved relief. As always the Board may wish to add any additional conditions based on their review.

GENERAL COMMENTS

1. No Work shall commence until a Decision Letter has been recorded at the Registry of Deeds, Middlesex North and the recording information has been submitted to the Lowell Division of Development Services (DDS) office.
2. The Lowell Zoning Board and/or the authorized representative(s) reserve the right to access the property at any time for the purpose of inspecting the work covered by this proposal.
3. Documents approved by the Board and/or the agent (s) thereof shall be made a part of all construction specifications.
4. Any approval and conditions of said approval shall apply to any successor in control or successor in interest of the property described in the Variance Application and accompanying plans submitted to the Lowell Zoning Board of Appeals.

DEVELOPMENT SERVICES

5. The applicant proposes to expand and upgrade the existing Domino’s Pizza to create additional parking spaces and a new drive-through window. The applicant proposes to join a vacant lot (374 Chelmsford) with the existing business located at 386 Chelmsford Street.
6. The applicant also proposes to construct an addition that increases the total square footage of the business to approximately 2,300 sq ft. The threshold to be considered a ‘carry-out’ restaurant is 1,500 sq ft.
7. The existing site has 6 parking spaces. The Site Plan dated 1/25/16, proposes 36 parking spaces. With the proposed addition, the required amount of parking spaces is 48.
 - The Site Plan dated 1/25/16, provides two parking spaces in front of the proposed dumpster area. The Board may wish to ask the applicant to remove those two spaces to ensure adequate access to the dumpster facilities.
 - The Site Plan dated 1/25/16 does not adequately indicate a loading zone for deliveries. However, the Site Plan shows 4 parking spaces behind the existing structure, and therefore, the Board may ask the applicant to designate the aforementioned 4 spaces to be exclusively used for a loading zone and/or employee only parking.
 - The Site Plan dated 1/25/16, does not indicate snow storage. The Board may wish to inquire where the applicant plans to store snow and ice. The Board may consider using the 2 parking spaces next to the dumpster area and the land behind it for snow storage.

- The Site Plan dated 1/25/16 provides 36 parking spaces. Considering all of the above, there will be 28 spaces available for customer parking. Since 48 customer parking spaces are required for a restaurant of this size, the applicant will need relief for at least 20 parking spaces.
 - Despite requiring relief for 20 parking spaces, it is the opinion of this office that the applicant is still providing sufficient customer parking for their business.
8. Section 6.1.9 encourages development to include live shade trees opposed to arbor vitae for landscaped open space. The Board may wish to ask the applicant to provide a new site design that incorporates shade trees in their landscape plan.
 9. The proposed expansion and addition keeps in character with the existing neighborhood. The subject property is located in the Regional Retail (RR) Zoning District. There are numerous other drive-through businesses in this corridor.
 10. The applicant has stated that all utilities needed for the expanded building currently exist including water, sewer, electricity, and gas. Should additional utilities need to be required, they must be installed according to city and state standards.
 11. The City Engineer must be contacted for all site inspections. This includes drainage, paving, water, and sewer services.
 12. The Board may wish to ask the applicant to discuss their plans for any new signage. If the applicant intends to install additional illuminated signs, any sign exceeding 30 sq ft, or a sign exceeding 20ft in height, the applicant will be required to request a Special Permit from the ZBA.
 13. The existing business on 386 Chelmsford Street currently shares a driveway with an abutting apartment building (368 Chelmsford) with their sole access through the Domino's parking lot. Per section 6.7.4, common driveways are only allowed for residential lots.
 14. We have received conflicting comments regarding the proposed addition and expansion of 374-386 Chelmsford Street. As of April 5, 2016, Development Services has not received an updated Site Plan. The Board should consider continuing the request for use of a drive-through window and the variance request for parking until the updated Site Plan is approved by the Planning Board. Appropriate City Staff and Departments have not had the opportunity to review an updated plan. Please see below for conflicting comments from the Lowell Fire Department and the Transportation Engineer.

Lowell Fire Department

After taking into consideration the proposed site plan and the overhead photo of the area, Fire Prevention has significant concerns regarding fire department vehicle access to the 368 Chelmsford St apartment bldg.. The vehicle congestion associated with a drive thru corridor and a one way restriction has the potential to impede fire apparatus placement on two sides of the bldg. in the event of a fire at 368 Chelmsford St. We would not like to see this plan approved as is. Thank you,

Transportation

The driveway should be one-way in a counter-clockwise direction just like the neighboring fast-food restaurants. The reason is to have fewer conflicts with the neighboring access points and less opportunities for conflicts with the flow of traffic. The parking spaces can then be angled-parking which reduces the size of the parking lot.

There is also a big issue regarding the neighboring apartment building which has a parking lot with its sole access through the Domino's parking lot. This is a highly unusual and undesired condition for reasons of safety and zoning. The purpose of zoning is to separate residential and commercial uses to decrease congestion and conflicts. Per section 6.7.4, common driveways are only allowed for residential lots. The proposed redevelopment of the parcel provides the opportunity to correct this issue by perhaps separating the access for these two uses. The applicant should be encouraged to provide options to separate the access points if possible or otherwise mitigate this condition.